

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
WEST VIRGINIA, AT MARTINSBURG**

DALE BERNARD BEARD, JR.,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:23-CV-193
HONORABLE GINA GROH**

**DANIEL E. SMITH, individually, and
ADAM ALBAUGH, individually,**

Defendants.

**DEFENDANTS' DISCLOSURES PURSUANT TO RULE 26(a)(3)
OF THE FEDERAL RULES OF CIVIL PROCEDURE**

COME NOW the Defendants, Daniel E. Smith and Adam Albaugh, by counsel, Keith C. Gamble, and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, pursuant Rule 26(a)(3) of the Federal Rules of Civil Procedure, and respectfully submit the following disclosures:

A. Rule 26(a)(3)(A)(i) – Witnesses Defendants expect to call:

1. Defendant, Daniel E. Smith
West Virginia State Police
14 Trooper Dr.
Martinsburg, WV 25404
2. Defendant, Adam Albaugh
Martinsburg Police Department
125 W Race St.
Martinsburg, WV 25401
3. Deputy Ryan Kolb
Berkeley County Sheriff's Department
510 S Raleigh St.
Martinsburg, WV 25401
4. Samuel D. Faulkner (Expert)
Response to Resistance, LLC

5102 SE 67th Ave.
Okeechobee, Florida 34974

5. Prosecuting Attorney Kathrine Harding
Berkeley County Prosecuting Attorney's Office
380 W South St #2400
Martinsburg, WV 25401

B. Rule 26(a)(3)(A)(i) – Witnesses Defendants may call:

1. Chain of Custody Officers from Martinsburg Police Department
125 W Race St.
Martinsburg, WV 25401
Only to establish securing of evidence
2. Defendants reserve the right to call any and all witnesses identified or otherwise listed by Plaintiff.
3. Defendants reserve the right to call any and all witnesses necessary to authenticate any exhibits identified herein to the extent that the authenticity and admissibility of such exhibits are not stipulated to by any party.

C. Rule 26(a)(3)(A)(ii) – Witnesses Defendants may present by deposition:

1. None at this time.

D. Rule 26(a)(3)(A)(iii) – Exhibits Defendants expect to offer:

1. Body Cam footage of Daniel E. Smith
2. Body Cam footage of Adam Albaugh
3. Martinsburg Police Department Incident Report and supplemental documents associated with Plaintiff's charges
4. Video recording from Plaintiff on date of incident
5. Written report of Samuel D. Faulkner, and all exhibits incorporated in report
6. Items seized from Plaintiff's vehicle equating to suspected marijuana tar or wax and 23 grams of white powder in unmarked pill bottle

7. 21-M-02-F00703; Magistrate Court October 27, 2021, Criminal Judgment Order with finding of probable cause on Plaintiff's Felony charges.

E. Rule 26(a)(3)(A)(iii) – Exhibits Defendants may offer if the need arises:

1. Deposition Transcript of Plaintiff Dale Bernard Beard, Jr
2. Deposition of Daniel E. Smith
3. Deposition of Adam Albaugh
4. Recorded statement of Deputy Ryan Kolb
5. Curriculum vitae of Katherine B. Harding, Esq.
6. Curriculum vitae of Samuel D. Faulkner
7. 2016 Memorandum from Judge Wilkes to all Berkeley, Morgan, and Jefferson Co. Magistrates and Police regarding "New Policy of law enforcement regarding field testing of certain suspected drugs."
8. Plaintiff's prescription records
9. To the extent not otherwise identified herein, Defendants reserve the right to utilize any exhibit that was marked in any deposition taken in this matter
10. To the extent not otherwise identified herein, Defendants reserve the right to utilize any document produced in discovery by any party in this matter or referred to by any party in this matter in the course of discovery
11. Defendants reserve the right to utilize at trial additional demonstrative exhibits, in addition to those exhibits identified herein, including, but not limited to, enlargements of jury instructions.

Dated this 8th day of November, 2024.

**Defendants, Daniel E. Smith and Adam
Albaugh,
By counsel:**

/s/ Keith C. Gamble

Keith C. Gamble, WV State Bar No. 7971

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CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants, does hereby certify on this 8th day of November 2024, that a true copy of the foregoing “***Defendants’ Disclosures Pursuant To Rule 26(A)(3) Of The Federal Rules Of Civil Procedure***” was filed and served via the CM/ECF filing system, as follows:

John H. Bryan, Esquire
Law Office of John H. Bryan
411 Main St.
P.O. Box 366
Union, WV 24983

/s/ Keith C. Gamble
Keith C. Gamble, WV State Bar No. 7971

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